

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

LOCALS 302 AND 612 OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS CONSTRUCTION INDUSTRY HEALTH AND SECURITY FUND; LOCALS 302 AND 612 OF THE INTERNATIONAL UNION OF OPERATING ENGINEERS-EMPLOYERS CONSTRUCTION INDUSTRY RETIREMENT FUND; WESTERN WASHINGTON OPERATING ENGINEERS-EMPLOYERS TRAINING TRUST FUND; and LOCAL 302 INTERNATIONAL UNION OF OPERATING ENGINEERS,

NO.

COMPLAINT TO COLLECT TRUST FUNDS AND UNION DUES

Plaintiffs,

v.

TBH & ASSOCIATES, LLC, a
Washington limited liability company,

Defendant.

COUNT ONE

Plaintiff Operating Engineers-Employers Welfare, Pension, and Training Trust
Funds allege:

**COMPLAINT TO COLLECT TRUST FUNDS
AND UNION DUES**

AND UNION
Page 1 of 5

Page 1 of 5
G:\01-019991540 IUOE Trust\TBH & Associates 85613 10-15-1\Complaint.docx

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1
2 I.
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4 They are unincorporated associations operating as Trust Funds pursuant to
5 Section 302 of the Labor Management Relations Act of 1947, as amended, under the
6 respective names of Locals 302 and 612 of the International Union of Operating
7 Engineers-Construction Industry Health & Security Fund, Locals 302 and 612 of the
8 International Union of Operating Engineers-Employers Construction Industry
9 Retirement Fund, and Western Washington Operating Engineers-Employers Training
10 Fund, to provide medical, retirement, and training benefits to eligible participants.
11 Plaintiffs' offices are located in King County, Washington.

12 II.
13

14 The Court has jurisdiction over the subject matter of this action under Section
15 502 (e)(1) and (f) of the Employee Retirement Income Security Act of 1974
16 ("ERISA"), 29 U.S.C. §1132 (e)(1) and (f) and under Section 301 (a) of the Taft-
17 Hartley Act, 29 U.S.C. §185 (a).

18 III.

19 Venue is proper in this district under Section 502 (e)(2) of ERISA, 29 U.S.C.
20 §1132 (e)(2), because Plaintiff Trusts are administered in this district.

21 IV.
22

23 Defendant is a Washington limited liability company.
24
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26 COMPLAINT TO COLLECT TRUST FUNDS
AND UNION DUES

Page 2 of 5

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1 V.
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4 Defendant is bound to a collective bargaining agreement with Local 302 of the
5 International Union of Operating Engineers (hereinafter "Local"), under which
6 Defendant is required to promptly and fully report for and pay monthly contributions
7 to the Plaintiff Trusts at varying, specified rates for each hour of compensation
8 Defendant pays to its employees who are members of the bargaining unit
9 represented by the Local (such bargaining unit members are any of Defendant's part
10 time or full time employees who perform any work task covered by the Defendant's
11 labor contract with the Local, whether or not those employees actually join the
Local).
12

13 VI.
14

15 Defendant accepted Plaintiffs' respective Agreements and Declarations of
16 Trust and thereby agreed to pay to each of Plaintiff Trusts liquidated damages equal
17 to twelve percent (12%) of all delinquent and delinquently paid contributions, or
18 \$25.00 per month, whichever sums are greater, and twelve percent (12%) annual
19 interest accruing upon each monthly contribution delinquency from the first day
20 thereof until fully paid, as well as all attorneys fees and costs, including audit
21 expenses if applicable, which Plaintiffs incur in collection of Defendant's unpaid
22 obligations.
23

VII.

24 Defendant submitted a remittance report for the month of October 2015, but
25 failed to pay contributions for that month. The total contributions owed for said

26 COMPLAINT TO COLLECT TRUST FUNDS
AND UNION DUES

Page 3 of 5

G:\01-01999\540 IUOE Trust\TBH & Associates 85613 10-15\Complaint.docx

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1 month are \$2,538.00. Based on Defendant's unpaid contributions for the month of
2 October 2015, Defendant is further obligated for liquidated damages in the amount of
3 \$317.72, as well as interest accruing and attorneys' fees and costs.
4

5 **COUNT TWO**

6 Plaintiff, Local 302 of the International Union of Operating Engineers
7 (hereinafter "Local"), alleges:
8

9 I.
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11 It is a labor organization with its principal offices in King County and brings
12 this action pursuant to Section 301 of the Labor Management Relations Act of 1947,
13 as amended.

14 II.
15

16 Defendant is a Washington limited liability company.
17

18 III.
19

20 Defendant entered into an agreement with the Local, whereunder Defendant
21 agreed to deduct from the periodic paychecks of its employees who are represented
22 by the Local, specified amounts for each hour of compensation Defendant pays to
23 those employees and to remit the total thus deducted each month to the Plaintiff
24 Local no later than the fifteenth (15th) of the month immediately following the month
25 in which such deductions were made.

26
COMPLAINT TO COLLECT TRUST FUNDS
AND UNION DUES

Page 4 of 5

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1 IV.
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Defendant submitted a remittance report for the months of October 2015, but failed to pay Local 302 the amounts due for that month. The total amounts owed for said month are \$164.49.

WHEREFORE, Plaintiffs pray the Court as follows:

1. That plaintiff Trust Funds be granted judgment against Defendant under
2 **COUNT ONE** for:
 - 9 a. All delinquent contributions due;
 - 10 b. All liquidated damages and pre-judgment interest due;
 - 11 c. All attorneys' fees and costs incurred by Plaintiffs in connection
12 with Defendant's unpaid obligations; and
 - 13 d. Such other and further relief as the court may deem just and
14 equitable.
- 16 3. That Plaintiff Trusts be granted judgment against Defendants under **COUNT**
17 **TWO** for:
 - 18 a. All amounts owing to it by the Defendant; and
 - 19 b. Such other and further relief as the court may deem just and
20 equitable.

DATED this 30th day of October, 2015.

REID, McCARTHY, BALLEW & LEAHY,
L.L.P.

Russell J. Reid, WSBA #2560
Attorney for Plaintiffs

26 COMPLAINT TO COLLECT TRUST FUNDS
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Page 5 of 5

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